

ESTABLISHING AN ADVISORY COMMISSION ON INTER-
GOVERNMENTAL RELATIONS

JULY 27, 1959.—Ordered to be printed

Mr. MUSKIE, from the Committee on Government Operations,
submitted the following

R E P O R T

[To accompany S. 2026]

The Committee on Government Operations, to whom was referred the bill (S. 2026) to establish an Advisory Commission on Intergovernmental Relations, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is in the nature of a substitute.

PURPOSE

S. 2026, as amended, is designed to strengthen the ability of our Federal system to meet the problems of an increasingly complex society by promoting greater cooperation, coordination of activities, and understanding among the separate levels of government. It seeks to accomplish this by establishing a 27-member bipartisan permanent Advisory Commission on Intergovernmental Relations, authorized to make a continuing study of intergovernmental problems at Federal, State, and local levels, and required to report to the President and the Congress annually. The Commission would be composed of three officers of the executive branch of the Federal Government; three Senators; three Members of the House of Representatives; four Governors; three members of State legislatures; four mayors; four county officials; and three private citizens.

In carrying out its duties, the Advisory Commission would be expected to (1) bring together representatives of the Federal, State, and local governments for the consideration of common problems; (2) provide a forum for discussing the administration and coordination

of Federal grant and other programs requiring intergovernmental cooperation; (3) give critical attention to the conditions and controls involved in the administration of Federal grant programs; (4) make available technical assistance to the executive and legislative branches of the Federal Government in the review of proposed legislation to determine its overall effect on the Federal system; (5) encourage discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation; (6) recommend, within the framework of the Constitution, the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of government; and (7) recommend methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between the levels of government and to reduce the burden of compliance for taxpayers.

In addition to making such studies and investigations as are necessary or desirable in the accomplishment of these purposes, the Commission would also be required to (1) consider, on its own initiative, ways and means for fostering better relations between levels of government; (2) submit an annual report to the President and the Congress on or before January 31 of each year; and (3) submit such additional reports to the President, the Congress, and any unit of government as the Commission may deem appropriate.

Of the 27 members of the Advisory Commission, 21 would be appointed by the President of the United States and 3 each would be appointed by the President of the Senate and the Speaker of the House of Representatives from among the membership of the respective Houses of Congress. Of those appointed by the President, three would be officers of the executive branch of the Government and three would be private citizens, all six of whom must have had experience or familiarity with intergovernmental relations; four would be chosen from a panel of at least eight Governors submitted by the Governors' conference; three from a panel of at least six members of State legislative bodies submitted by the board of managers of the Council of State Governments; four from a panel of at least eight mayors submitted jointly by the American Municipal Association and the U.S. conference of mayors; and four from a panel of at least eight elected county officers submitted by the National Association of County Officials. In the case of Governors, State legislators, mayors, and county officials, not more than one may be from any one State; and in the case of mayors, at least two appointees must be from cities under 500,000 population.

ADDITIONAL PROVISIONS OF S. 1026

Members of the Commission would be appointed for a term of 2 years and would be eligible for reappointment, but when any member ceases to serve in the official position from which he was appointed, his place on the Commission would be deemed vacant. All members would be appointed on a bipartisan basis, except the three private citizens whose appointment would be without regard to political affiliation. Vacancies would be filled in the same manner in which the original appointment was made, except that where the number of vacancies is fewer than the number of members specified, in the case

of Governors, State legislators, mayors, and county officers, each panel of names submitted must contain at least two names for each vacancy.

The President would be required to convene the Commission within 90 days following enactment of the act at such time and place as he may designate for the Commission's initial meeting; the President would designate a Chairman and a Vice Chairman from among the members of the Commission; and 14 members would constitute a quorum, but 2 or more members would constitute a quorum for the purpose of conducting hearings.

The Commission, or any subcommittee or members thereof, when authorized by the Commission, may hold such hearings, sit and act at such times and places, and take such testimony in carrying out the provisions of the act as the Commission deems advisable. Each department, agency, or instrumentality of the executive branch, including independent agencies, would be authorized and directed to furnish the Commission, upon request of the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under the act.

The Commission would be authorized to appoint, fix the compensation of, and remove the staff director without regard to civil-service laws and the Classification Act of 1949, such appointment to be made solely on the basis of fitness to perform the duties of the position and without regard to political affiliation. Subject to such rules and regulations as may be adopted by the Commission, the Chairman would be authorized, without regard to civil-service laws, the Classification Act of 1949, and political affiliation, to appoint, fix the compensation of, and remove such additional personnel as he deems necessary, and to procure temporary and intermittent services of experts and consultants at rates not to exceed \$50 per day. Employees of the Commission may not be paid compensation at a rate in excess of \$20,000 per annum. The staff director and the full-time employees of the Commission would be considered Federal employees for all purposes, including the Civil Service Retirement Act, the Federal Employees Group Life Insurance Act of 1954, annual and sick leave, and the Travel Expense Act of 1949.

Members of the Commission would receive a per diem of \$50 when engaged in the performance of their official Commission duties, except those members who are Members of Congress, officers of the executive branch of the Government, or full-time salaried officers of city and county governments, who would serve without additional compensation. All members of the Commission would be allowed necessary travel expenses without regard to the Travel Expense Act of 1949 and other applicable statutes governing travel expenses, or, in the alternative, a per diem in lieu of subsistence and mileage not to exceed the rates prescribed in the Travel Expense Act of 1949. All members would also be entitled to reimbursement of other necessary expenses incurred by them in the performance of official Commission duties.

BACKGROUND

The establishment of a commission to study various aspects of Federal-State-local relations has received almost continuous consideration by this committee since 1947, when a Subcommittee on Intergovernmental Relations was established. Following a meeting of

members of congressional committees and Governors, called for the purpose of studying Federal-State tax relations, held in Chicago on September 26-27, 1947, the Senate Committee on Government Operations (then the Committee on Expenditures in the Executive Departments) was designated to conduct a special study of the problems of coordination of Federal and State taxes, with the objective of strengthening the tax structures of local and State governments and compensating them for losses of revenues from former sources of taxation. In its report to the Senate (S. Rept. 1054, 80th Cong.), stress was placed by the committee on the importance of assuring that Federal, State, and local tax systems are adequate to the task assigned to them and on the need for determining whether they fit together into a combined tax system which is equitable, administratively efficient, and economically sound.

Various studies were continued in 1948, and early in 1949, the committee received the report and recommendations of the first Commission on Organization of the Executive Branch of the Government (Hoover Commission) dealing with Federal-State Relations (S. Doc. 81, 81st Cong.). One of the major recommendations was that a continuing agency on Federal-State relations be created, with primary responsibility for study, information, and guidance in that field.

In 1949, the committee considered three Senate measures relative to the establishment of a National Commission on Intergovernmental Relations which would have been required to study and make recommendations with respect to various aspects of intergovernmental relations, including intergovernmental tax immunities. Joint hearings were held by the Subcommittees on Intergovernmental Relations of both the Senate and House Committees on Government Operations, lasting 5 consecutive days, and at which 267 pages of testimony were received and more than 20 witnesses were heard. A committee bill was reported favorably on June 13, 1949 (S. Rept. 488, 81st Cong.), but failed of passage late in the session upon objection on a call of the Senate Calendar.

In 1950, the committee considered S. 3147, which had been drafted by its Subcommittee on Intergovernmental Relations. It was introduced by Senator Humphrey, for himself and 42 other Senators, and was substantially similar to the measure previously reported. This bill was reported favorably on June 22, 1950 (S. Rept. 1856, 81st Cong.), but also failed of passage.

Following consideration of other similar bills in the 82d and 83d Congresses, a temporary Commission on Intergovernmental Relations was created in July 1953 (Public Law 109, 83d Cong.) (Kestnbaum Commission). This Commission made an exhaustive examination of the entire field. In its recommendations, which covered a wide area of Federal-State-local relations, the Commission stressed the importance of strengthening communications and relations between the levels of government.

In 1955, the Subcommittee on Intergovernmental Relations of the House Committee on Government Operations undertook an exhaustive analysis of the Kestnbaum Commission's report with a view to evaluating and implementing its recommendations. Following a 3-year study by that subcommittee, the House Committee on Govern-

ment Operations issued a report (H. Rept. 2533, 85th Cong.), in which it recommended—

the establishment of a broadly based Advisory Commission on Intergovernmental Relations, drawing its membership from the Congress, the executive branch, Governors, State legislators, mayors, county officials, and private citizens.

JOINT HEARINGS

Joint hearings were held on S. 2026 and two companion House bills, H.R. 6904 and H.R. 6905, by the Intergovernmental Relations Subcommittee of the House Committee on Government Operations and the Senate Committee on Government Operations. At these hearings, held on June 16, 17, 19, and 22, 1959, the committees heard 21 witnesses and received written statements from 45 additional individuals or organizations who were unable to be present.

The witnesses included Members of Congress, Governors, mayors representing the American Municipal Association and the U.S. Conference of Mayors, a spokesman for the National Association of County Officials, and former members of the Commission on Intergovernmental Relations. Testimony or statements favoring this legislation were received from 22 Governors. No Governor was opposed to the Commission's establishment.

State Senator Leslie B. Cutler of Massachusetts presented the committees in joint hearing with a unanimous resolution adopted June 10, 1959, by the Massachusetts Senate memorializing the Congress to enact this legislation for the establishment of an Advisory Commission on Intergovernmental Relations. Similar resolutions have also been adopted by the American Municipal Association, the U.S. Conference of Mayors, and the National Association of County Officials.

Throughout the hearings, much emphasis was placed by the witnesses upon the urgent need for a permanent body which would give continuing attention to major intergovernmental problems and which would act as a center or clearinghouse for the assistance of government officials at all levels in coordinating related activities.

In his testimony, Mr. Meyer Kestnbaum, referring to the work of the Commission on Intergovernmental Relations which he headed, pointed out that the study made by that Commission was only the beginning of a real inquiry into the whole subject. He concluded by stating:

I should like to go on record as saying that the idea of a commission that will give the President and the Congress the benefit of careful, incisive research and examination of the many problems that face us in this area is sound, and that it can fulfill a very important and useful function.

COMMITTEE ACTION

After a careful review of the testimony, and based upon its own experience covering a period of more than 12 years, the committee found that there is an urgent need for permanent organizational arrangements to assist in improving relations between the various levels of government with a view toward strengthening our Federal system.

The committee found further that, despite the many studies which have been made and the work which has been done by congressional

committees and other groups, both public and private, the basic problems still remain. The related problems of Federal, State, and local governments continue to grow more complex, and there is no place to which government officials at the different levels of government may turn for discussion, exchange of ideas, expert assistance, and advice. Numerous piecemeal attempts have been made to meet these problems, but no notable success appears to have resulted from these efforts.

Accordingly, it is the committee's view that the only feasible approach to these continuing problems is to provide an agency which would (1) bring together representatives of all levels of government for a discussion of their common problems and which would provide a forum for discussion and coordination of various Federal programs requiring intergovernmental cooperation; (2) encourage discussion of emerging public problems which are likely to require intergovernmental cooperation; (3) make continuing studies of the problems and recommend the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of government; and (4) recommend methods of coordinating and simplifying tax laws so as to achieve a more orderly and less competitive fiscal relationship between the levels of government.

In considering various means of achieving these objectives, the committee determined that the establishment of a permanent Advisory Commission on Intergovernmental Relations would provide the most practical approach. It was the view of the committee, however, that if such a commission is to be effective, it must be a genuine, intergovernmental body, truly representative of all levels of government, and not an agency dominated or controlled by any one level.

In order to accomplish this objective, the committee deemed it necessary to provide for the widest possible coverage, not only from the standpoint of levels of government, but also with respect to geographic considerations. The committee desires to stress, in this connection, that it does not intend this coverage to mean that representatives of the various levels will act as special pleaders for those levels, or that members of the Commission will regard themselves primarily as representatives of any particular group, level of government, or geographic area for the advancement of a special interest. The arrangement provided for is intended to encourage the assumption of responsibility by the appropriate level or levels of government with respect to any given problem, rather than to urge a Federal solution merely because Federal action appears to be the easiest course.

The committee also desires to point out that in providing for the appointment of Commission members, it has sought to assure the selection of outstanding, dedicated persons, possessing special knowledge and qualifications in the field of intergovernmental relations, who will perform their duties objectively. Thus, provision has been made for the participation of the leading State and local government organizations in the selection of State and local members, since these organizations are well equipped to recommend outstanding individuals from their respective levels of government.

The committee is aware of the fact that a 27-member body may appear to be cumbersome. However, such a number was deemed

necessary in order to provide for and maintain the necessary balance on the Commission. It should be noted that it is the committee's intention that the Commission will establish working committees in various fields, and will retain a staff of qualified experts and consultants in order to assist it in carrying out its duties and responsibilities.

Consideration was given to providing for contributions by the States of a portion of the Commission's operating expenses. Although the committee believes that joint Federal-State financial support is desirable in principle, considerable doubt existed as to the practicability of such an arrangement. Accordingly, in order to avoid handicapping the Commission with difficulties which are apt to arise from a joint arrangement, it was deemed advisable to have the Commission's operating expenses paid wholly from Federal funds. However, the committee is of the opinion that the States should, and will desire to, contribute indirectly to the Commission's support by furnishing staff assistance to the Commission and to its working committees.

COMMITTEE AMENDMENTS

The committee adopted a number of recommendations made by witnesses at the hearings, as well as some which were proposed by the Director of the Bureau of the Budget.

The principal amendments are (1) an elaboration of the declaration of purpose, so as to broaden and clarify the frame of reference and the duties of the Commission (secs. 2 (6) and (7)); (2) enlargement of the membership of the Commission from 24 to 27 members, so as to afford county government greater and more proportionate representation (sec. 3(a)); (3) enlargement of the size of the panels to be submitted to the President by the various levels of government for appointment to membership on the Commission, so as to afford the President greater flexibility in the appointments (sec. 3(a), (4), (5), (6), and (7)); (4) increase in the number of county government representatives from 1 to 4 (sec. 3(a)(7)); and (5) provision for designation of the Chairman and the Vice Chairman of the Commission by the President from among the members of the Commission (sec. 4(b)).

Other amendments which were adopted are technical, perfecting amendments which were made necessary by the amendments set forth above. In view of the considerable number of minor amendments which were adopted, the committee deemed it convenient to report the bill as an amendment in the nature of a substitute.

CONCLUSION

S. 2026, as amended, will establish a permanent agency which, in the judgment of the committee, would be well equipped to serve as a central clearinghouse and coordinating center for the study and solution of the numerous pressing problems arising out of intergovernmental relations. Culminating many years of study by the Senate and House Committees on Government Operations, it is the committee's firm judgment that this action is long overdue. Each year, the related problems of Federal, State, and local governments grow more complex and no adequate or effective steps have been taken to meet these problems in an orderly fashion. It is the committee's belief that affirmative action can no longer be delayed and that the time has

8 ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

come when the attainment of the objectives of the pending bill are imperative in order to assure a proper functioning of our Federal system.

The committee desires to reemphasize that, if its objectives are to be attained, members of the Commission must be chosen on the basis of their individual experience, competence, and dedication to service to the entire Nation and not to any particular level of government, geographic area, or special interests with which they are associated.

